

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal REVN. NO. 129 OF 2005

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar' orders. Court' or Judge' orders

None present for the parties.

CORAM: R.M.S. KHANDEPARKAR
&
SMT. R.S. DALVI JJ.
DATE:14/03/2006

P.C.:

None present.

Apart from the fact that this petition can be disposed of for non prosecution, perusal of the impugned order discloses that the application for maintenance filed by the respondent has been allowed directing the petitioner to pay maintenance allowance tot he respondent to the tune of Rs.3000/- per month. The main grievance of the petitioner is that the respondent did not place on record any evidence regarding the quantum of income of the

petitioner. It is well settled law that the income of the party is always within the knowledge of the concerned party and therefore in the case of an application for maintenance, the opponent from whom the maintenance is claimed has essentially to place on record cogent evidence in relation to the income. Burden in that regard cannot be cast on the applicant or applicants, as the case may be, to establish the income of the respondent. It is only after the respondent establishes by producing cogent evidence on record in relation to his income, onus would shift on the applicant in that regard. Perusal of the impugned order discloses that the petitioner had not taken any pain to place on record sufficient evidence as regards his income. Whatever evidence is placed on record by the respondent it discloses that the petitioner's monthly income is around Rs.30,000/-. Based on that, maintenance allowance has been ordered to be paid at the rate of Rs.3000/- per month to the respondent.

In the circumstances we do not find any case for interference with the impugned order as it does not disclose any irregularity or illegality as such. Hence the petition is rejected.

(MRS ROSHAN DALVI J) (R.M.S. KHANDEPARKAR J.)